

# FERC

## Meeting Agenda Summary

---

### In this issue...

- Electric Items
  - Miscellaneous Items
  - Gas Items
  - Hydro Items
  - Certificate Items
- 

15 May 2018

Authors: [Daniel Hagan](#), [Jane E. Rueger](#)

Below are brief summaries of the agenda items for the Federal Energy Regulatory Commission's May 17, 2018 meeting, pursuant to the agenda as issued on May 10, 2018. Items M-1 and G-3 have not been summarized due to omission from the agenda.

### Electric

**E-1 – Geomagnetic Disturbance Reliability Standard (Docket No. RM18-8-000).** On January 22, 2018, the North American Electric Reliability Corporation (“NERC”) filed a petition at the Commission for approval of Proposed Reliability Standard TPL-007-2 (Transmission System Planned Performance for Geomagnetic Disturbance Events), the associated implementation plan, the Violation Risk Factors and Violation Severity Levels, and the retirement of currently-effective Reliability Standard TPL-007-1. NERC states in its petition that Proposed Reliability Standard TPL-007-2 requires owners and operators of the Bulk Power System (“BPS”) to conduct initial and on-going vulnerability assessments of the potential impact of defined geomagnetic disturbance events on BPS equipment and the BPS as a whole. Agenda item E-1 may be an order on NERC's petition.

**E-2 – Regulations Implementing FAST Act Section 61003- Critical Electric Infrastructure Security and Amending Critical Energy Infrastructure Information (Docket No. RM16-15-001).** On November 17, 2016, the Commission issued Order No. 833, which amended the Commission's regulations to implement the requirements of the Fixing America's Surface Transportation (“FAST”) Act, as set forth in section 215A(d)(2) of the Federal Power Act (“FPA”). On December 19, 2016, Edison Electric Institute (“EEI”) requested clarification, or in the alternative, rehearing of the Order No. 833. EEI specifically requested, *inter alia*, that the Commission reconsider its decision to provide Critical Energy/Electric Infrastructure Information (“CEII”) to members of the public despite the CEII submitter's objection to the Commission releasing such information. Agenda item E-2 may be an order on EEI's request for clarification.

---

**E-3 – Southwest Power Pool, Inc. (Docket No. ER16-204-001).** On December 27, 2017, the Nebraska Public Power District (“NPPD”) filed a motion (“December Motion”) requesting that the Commission reopen the record in a proceeding regarding Southwest Power Pool, Inc.’s (“SPP”) proposal to include Tri-State Generation and Transmission Association, Inc.’s (“Tri-State”) transmission facilities in SPP Tariff pricing Zone 17. NPPD argues new evidence and changed circumstances relate to SPP’s proposal in this docket, and the appropriate SPP pricing zone into which Tri-State ultimately should be placed. Numerous entities filed answers to NPPD’s December Motion. Agenda item E-3 may be an order on NPPD’s December Motion.

**E-4 – Southwest Power Pool, Inc. (Docket No. ER17-1575-002).** On October 19, 2017, the Commission issued an order rejecting SPP’s proposed revisions to its Open Access Transmission Tariff to modify the eligibility for Auction Revenue Rights and Long-Term Congestion Rights for network service subject to redispatch while transmission upgrades are being constructed. On November 20, 2017, Xcel Energy Services Inc. (“XES”), on behalf of its utility operating company affiliate Southwestern Public Service Company, requested rehearing of the Commission’s October Order. Agenda item E-4 may be an order on XES’s request for rehearing.

**E-5 – Southwest Power Pool, Inc. Buffalo Dunes Wind Project, LLC, Enel Green Power North America, Inc., Alabama Power Company, and Southern Company Services, Inc. v. Southwest Power Pool, Inc. (Docket Nos. EL16-110-002 & EL17-69-001).** On September 23, 2016, the Commission issued an order finding that SPP’s Open Access Transmission Tariff (“Tariff”) may be unjust and unreasonable and unduly discriminatory or preferential to the extent it allowed SPP to provide Auction Revenue Rights and Long-Term Congestion Rights to network service customers subject to redispatch while necessary transmission upgrades are constructed. A related complaint pursuant to Section 206 of the FPA was filed under Docket No. EL17-69-000. On October 19, 2017, the Commission issued an order denying the complaint. On November 20, 2017, Alabama Power Company filed a request for rehearing of the October 19 order. Agenda item E-5 may be an order related to Alabama Power Company’s request for rehearing.

**E-6 – Joint California Complainants v. Pacific Gas and Electric Company (Docket No. EL17-59-001).** On March 31, 2017, Joint California Complainants (“Complainants”) filed a complaint pursuant to section 206 of the FPA against Pacific Gas & Electric Company (“PG&E”) alleging that its Transmission Owner Tariff TO-18 filing was unjust and unreasonable and should be set at a rate below the last clean rate established through settlement of TO-17. On November 16, 2017, the Commission issued an order denying the complaint, finding that the Complainants failed to meet their burden under section 206 of the FPA. On December 18, 2017, Complainants filed a request for rehearing of the November 16 Commission order. Agenda item E-6 may be an order related to the request for rehearing.

**E-7 – California Public Utilities Commission, Transmission Agency of Northern California, Sacramento Municipal Utility District, M-S-R Public Power Agency, City of Santa Clara, California, State Water Contractors, Modesto Irrigation District, and Northern California Power Agency v. Pacific Gas and Electric Company Pacific Gas and Electric Company (Docket No. EL17-95-000 and ER17-2154-000).** On July 27, 2018, PG&E submitted pursuant to section 205 of the FPA proposed changes to its wholesale and retail electric transmission rates of PG&E’s Transmission Owner (“TO”) Tariff. Under Docket No. EL17-95-000, on March 31, 2017, Joint California Complainants (Complainants) filed a complaint pursuant to section 206 of the FPA against PG&E alleging that its Transmission Owner Tariff TO-18 filing was unjust and unreasonable and should be set at a rate below the last clean rate established through settlement of TO-17. Agenda item E-7 may be an order related to PG&E’s TO rates.

**E-8 – Oklahoma Municipal Power Authority v. Oklahoma Gas and Electric Company (Docket No. EL18-58-000).** On January 26, 2018, Oklahoma Municipal Power Authority (“OMPA”) filed a complaint pursuant to section 206 of the FPA against Oklahoma Gas and Electric Company (“OG&E”) seeking to an order to reduce the return on equity that constitutes a stated-rate element of the transmission formula under which OG&E determines its annual transmission revenue requirement. Agenda item E-8 may be an order on OMPA’s complaint.

## Miscellaneous

### M-1 – Omitted

---

**M-2 – Withdrawal of Pleadings (Docket No. RM18-7-000).** On February 15, 2018, the Commission issued a Notice of Proposed Rulemaking (“NOPR”) regarding its Rules of Practice and Procedure. Namely, the Commission initiated the NOPR to revise the existing title of Rule 216 (entitled “Withdrawal of pleadings and tariff or rate filings”) to “Withdrawal of pleadings.” The Commission states that modifying the title will improve clarity relating to Rule 216, as the withdrawal of tariff or rate filings are governed by separate regulations, and not under the purview of Rule 216. Agenda item M-2 may be an order on the NOPR to revise the title of Rule 216.

## Gas

**G-1 – Kinetica Energy Express, LLC (Docket Nos. RP16-1299-003, RP17-977).** On September 30, 2016, in Docket No. RP16-1299, and on August 25, 2017, in Docket No. RP17-977, Kinetica Energy Express, LLC (“Kinetica”) submitted revisions to its tariff. On August 25, 2017, FERC issued an order requiring changes to the proposed tariff sheets filed in the dockets. On September 25, 2017, Kinetica filed proposed tariff changes to comply with the August 25<sup>th</sup> Order. A coalition of producers protested the requested effective date, as well as proposed changes regarding a shipper’s right to request a secondary point of receipt or delivery and Kinetica’s ability to consider deliverability when determining service curtailments. Kinetica has submitted answers in response. Agenda item G-1 may be an order regarding Kinetica’s proposed tariff changes.

**G-2 – White Cliffs Pipeline, L.L.C. (Docket No. OR18-9-000).** On December 22, 2017, White Cliffs Pipeline, L.L.C., (“White Cliffs”) requested authorization to charge market-based rates for the transportation of crude oil from Colorado to Oklahoma. Various liquids producers and shippers filed motions to intervene and protests, stating that White Cliffs possesses undue market power over transportation from its origin point in Colorado. White Cliffs filed an answer to the protests and an answer opposing certain motions to intervene. Agenda item G-2 may be an order in the proceeding.

### G-3 – Omitted

**G-4 – Seaway Crude Pipeline Company LLC (Docket No. OR15-6-000).** On December 9, 2014, Seaway Crude Pipeline Company LLC (“Seaway”) filed a renewed application to charge market-based rates for the transportation of crude oil from Oklahoma to Gulf Coast delivery points. Various parties intervened and filed protests, and a public hearing was held in July of 2016. On December 1, 2016, FERC issued an initial decision in favor of Seaway’s application, and on February 1, 2017, the Canadian Association of Petroleum Producers and the Liquids Shippers Group filed briefs on exceptions. Various briefs and motions have been filed regarding the briefs on exceptions. Agenda item G-3 may be a final order in the proceeding.

**G-5 – Peregrine Oil & Gas II, LLC v. Texas Eastern Transmission, LP (Docket No. RP17-811-001).** On June 1, 2017, Peregrine Oil & Gas II, LLC (“Peregrine”) filed a complaint alleging that the manner in which Texas Eastern Transmission, LP (“Texas Eastern”) addressed an outage violated Texas Eastern’s service obligations under the Natural Gas Act and constituted an unauthorized abandonment. On October 27, 2017, FERC issued an order on the complaint, stating that the outage did not amount to an abandonment, and establishing hearing and settlement judge procedures to resolve other issues raised by Peregrine’s complaint. On November 27, 2017, Peregrine submitted a motion for clarification or a request for rehearing of FERC’s handling of the abandonment issue in the October 27 order. FERC granted the request for rehearing on December 26, 2017. Agenda item G-5 may be an order addressing the abandonment issue.

## Hydro

**H-1 – Elimination of Form 80 and Revision of Regulations on Recreational Opportunities and Development at Licensed Hydropower Projects (Docket No. RM18-14-000).** Agenda item H-1 may initiate a new proposed rulemaking proceeding relating to the Elimination of Form 80 and Revision of Regulations on Recreational Opportunities and Development at Licensed Hydropower Projects.

---

## Certificates

**C-1 – Gulf South Pipeline Company, LP (Docket No. CP17-476-000).** On July 20, 2017, Gulf South Pipeline Company, LP (“Gulf South”) submitted an abbreviated application for a certificate of public convenience and necessity (“CPCN”) pursuant to section 7(c) of the Natural Gas Act (“NGA”). The application seeks Commission authorization for the proposed Westlake Expansion Project, located in Louisiana. The project would be comprised of new facilities added to Westlake: a compressor station, 0.3 mile pipeline, delivery meter station, and receipt meter station in order to provide firm transportation service of natural gas to the proposed natural gas combined cycle unit owned and operated by Entergy Louisiana, LLC. On February 27, 2018, the Commission issued the Environmental Assessment for the project, finding no significant impact to the human environment. Agenda item C-1 may be an order on the application for a CPCN for the Westlake Expansion Project as proposed by Gulf South.

**C-2 – Tennessee Gas Pipeline Company, L.L.C., Kinder Morgan Border Pipeline LLC, Kinder Morgan Tejas Pipeline LLC (Docket No. CP18-48-000).** On January 16, 2018, Tennessee Gas Pipeline Company, L.L.C. (“Tennessee”), Kinder Morgan Border Pipeline LLC (“Border), and Kinder Morgan Tejas Pipeline LLC (“Tejas”) (collectively, “Joint Applicants”) submitted a joint application for a CPCN. The application seeks Commission authorization related to a proposed lease agreement between Tennessee and Tejas/Border, in which Tennessee would lease natural gas transportation capacity for use in serving its shippers. Tennessee would supply this natural gas under the existing terms of its FERC Gas Tariff. Additionally, the Joint Applicants requested a limited jurisdiction certificate — in order to keep the intrastate operations of each entity exempt from the NGA — for the interstate transportation of natural gas under the terms of the lease agreement. Agenda item C-2 may be an order on the application for a CPCN relating to the proposed lease agreement entered into between the Joint Applicants.

White & Case LLP  
701 Thirteenth Street, NW  
Washington, District of Columbia 20005-3807  
United States

T +1 202 626 3600

In this publication, White & Case means the international legal practice comprising White & Case LLP, a New York State registered limited liability partnership, White & Case LLP, a limited liability partnership incorporated under English law and all other affiliated partnerships, companies and entities.

This publication is prepared for the general information of our clients and other interested persons. It is not, and does not attempt to be, comprehensive in nature. Due to the general nature of its content, it should not be regarded as legal advice.